

**EXHIBIT 34,
PART 2**

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IV. Shareholder Rights Plan

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IV. Shareholder Rights Plan

Shareholder Rights Plan

Puts the Board in Control of Process

- ☐ Upon acquisition of a threshold percentage of Common Stock (10–20%), Rights “flip-in” to cause substantial economic dilution to stockholder
- ☐ Hostile takeover is prohibitively costly
- ☐ Board may redeem Rights Plan to permit value maximizing, negotiated transactions and can exempt certain “qualified” or “permitted offers”

Rights Plans Are Intended To:

- ☐ Protect stockholders against unsolicited attempts to acquire control of the Company that (1) represent an inadequate price to stockholders or (2) are not in the best interests of the Company and its stockholders
- ☐ Encourage bidders to negotiate with the Board (put “gavel” in Board’s hand)
- ☐ Provide opportunity to preserve existing, more advantageous strategies or to develop and implement superior alternatives
- ☐ Reduce adverse effects of increased concentration in stock ownership

Rights Plans Are Not Intended To:

- ☐ Reduce or alter the Board’s fiduciary duties to stockholders
- ☐ Deter fully-priced and fairly structured offers
- ☐ Prevent proxy contests for control of the Board

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Constraints on Board Use of Shareholder Rights Plan

- ☐ Board always must act in good faith and in the best interests of Stockholders
- ☐ Delaware Courts carefully enforce Board's fiduciary duties to Stockholders
- ☐ Stockholders opposed to use of Rights Plan may initiate proxy contest to remove Board and redeem Rights (less likely when Board is staggered)

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Mechanics of Shareholder Rights Plan

Dividend of Rights: Stockholders receive one Right to purchase 1/1,000 of a share of preferred stock for each share of Common Stock

- ☐ Exercise Price of Rights is well above current market price
- ☐ Rights attached to Common Stock; not currently exercisable
- ☐ "Flips" into right to purchase Common Stock upon Trigger Event

Exercise Price: Estimated long-term (10 year) value of Common Stock

Distribution: Detach from Common Stock when tender offer commenced or threshold percentage of Common Stock acquired

- ☐ Board can delay distribution in connection with tender offer

Redemption: Before Trigger Event, Board may redeem Rights for nominal consideration

Trigger Event: Occurs upon acquisition of threshold percentage of Common Stock by acquirer

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Mechanics of Shareholder Rights Plan (Cont'd)

Flip-In: After Trigger Event, each stockholder (except acquirer) has right to purchase Common Stock at $\frac{1}{2}$ market price, diluting the acquirer's economic and voting interest in the Company

- ☐ *Example:* Exercise Price = \$100; Market Price = \$20
- ☐ *Effect:* Exercise Price purchases 10 shares at \$10 per share → a 50% discount to Market Price
- ☐ "Market Price" is calculated as average closing prices of Common Stock for 30 trading days immediately prior to public announcement of Trigger Event

Flip-Over: After Trigger Event, if Company does not survive in a merger or other consolidation, each stockholder (except acquirer) has right to purchase Common Stock of surviving entity at $\frac{1}{2}$ market price

Expiration: Commonly 10 years; Board may accelerate expiration by amendment

Exchange Provision: After Trigger Event, Board may exchange Common Stock for Rights

- ☐ Avoids need for stockholders to pay cash to exercise Rights
- ☐ Exchange only available prior to time acquirer obtains 50% of Common Stock

Comparison to Previous Company Rights Plan: Generally comparable except previous rights plan had 10% threshold

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Design Features – Choices for the Board

- ☐ Exercise Price
- ☐ Trigger Threshold
- ☐ Expiration Date
- ☐ Nature and Timing of Stockholder Approval
- ☐ Qualified or Permitted Offer Provisions
- ☐ Grandfathering of Existing Stockholder(s), if necessary

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Establishing the Exercise Price

Blackstone utilized the following methodologies to determine the exercise price per right for a potential Company shareholder rights plan:

Potential 10-year Share Price Appreciation

- ☐ 10-year performance of market indices (S&P 500 and Dow Jones Industrial Average ("DJIA")) and Company share price
- ☐ Projected long-term EPS growth of market indices (S&P 500 and Dow Jones Industrial Average)
- ☐ Capital Asset Pricing Model methodology

Comparable Exercise Price / Share Price Ratio

- ☐ All plans adopted by the S&P 500 since 1990
- ☐ All plans adopted by the Dow Jones Industrial Average since 1990

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Summary of Methodologies

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**Historical Share Price Appreciation and
Long-Term EPS Growth Rates**



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**Historical Share Price Appreciation and
Long-Term EPS Growth Rates (Cont'd)**

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Capital Asset Pricing Model ("CAPM") Analysis

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**Precedent Ratios: Shareholder Rights Plans
Adopted or Amended Since 1990**

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**Precedent Ratios: Shareholder Rights Plans
Adopted or Amended Since 1990 (Cont'd)**

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Daily Total Return

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Mechanics of a Shareholder Rights Plan
(10% Trigger Threshold)

Any purchaser that increases its ownership stake beyond the 10% trigger threshold would suffer significant dilution in both value and ownership.

(\$ in millions, except per share data)

Assumptions	10%	10%	10%	10%	10%	10%
Trigger Threshold						
Exercise Price of Right	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
FD Shares Outstanding	34.1	34.1	34.1	34.1	34.1	34.1
Shares Owned by Acquiror (10%)	3.4	3.4	3.4	3.4	3.4	3.4
Financial Impact on Acquiror						
Pre-Trigger Market Capitalization	\$170.4	\$255.5	\$340.7	\$425.9	\$511.1	\$596.3
Cash from Exercise of Poison Pill	398.6	398.6	398.6	398.6	398.6	398.6
Pro Forma Market Capitalization	\$569.0	\$654.2	\$739.4	\$824.5	\$909.7	\$994.9
Flip-In Factor	2.0x	2.0x	2.0x	2.0x	2.0x	2.0x
Pro Forma FD Shares Outstanding	193.5	140.4	113.8	97.9	87.2	76.5
Pro Forma Share Price	\$2.94	\$4.66	\$6.50	\$8.43	\$10.43	\$12.43
Value of Acquiror's Company Stock						
Pre-Trigger	\$17.0	\$25.6	\$34.1	\$42.6	\$51.1	\$59.6
Post-Trigger	10.0	15.9	22.1	28.7	35.5	42.3
Dilution of Value in \$	(\$7.0)	(\$9.7)	(\$11.9)	(\$13.9)	(\$15.6)	(\$17.3)
Dilution of Value as %	(41.2%)	(37.9%)	(35.0%)	(32.6%)	(30.5%)	(28.8%)
Post-Trigger Ownership (vs. 10% Pre-Trigger)	1.8%	2.4%	3.0%	3.5%	3.9%	4.3%

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Mechanics of a Shareholder Rights Plan
(15% Trigger Threshold)

Any purchaser that increases its ownership stake beyond the 15% trigger threshold would suffer significant dilution in both value and ownership.

(\$ in millions, except per share data)

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Assumptions		Assumptions	
Trigger Threshold	15%	15%	15%
Exercise Price of Right	\$13.00	\$13.00	\$13.00
FD Shares Outstanding	34.1	34.1	34.1
Shares Owned by Acquirer (15%)	5.1	5.1	5.1
Financial Impact on Acquirer		Financial Impact on Acquirer	
Pre-Trigger Market Capitalization	\$170.4	\$255.5	\$340.7
Cash from Exercise of Poison Pill	376.5	376.5	376.5
Pro Forma Market Capitalization	\$546.9	\$632.0	\$717.2
Flip-In Factor	2.0x	2.0x	2.0x
Pro Forma FD Shares Outstanding	184.7	134.5	109.4
Pro Forma Share Price	\$2.96	\$4.70	\$6.56
Value of Acquirer's Company Stock		Value of Acquirer's Company Stock	
Pre-Trigger	\$25.6	\$38.3	\$51.1
Post-Trigger	15.1	24.0	33.5
Dilution of Value in \$	(\$10.4)	(\$14.3)	(\$17.6)
Dilution of Value as %	(40.6%)	(37.3%)	(34.4%)
Post-Trigger Ownership (vs. 10% Pre-Trigger)	2.8%	3.8%	4.7%
			5.4%
			6.1%

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Expiration Date

Considerations

- ☐ Execution of strategic plan
- ☐ Availability of financial information
- ☐ Existing "poison pill" policy

Certain Alternatives

- ☐ 10 years (traditional)
- ☐ Shorter fixed duration
- ☐ Upon conclusion of next meeting of stockholders

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Nature and Timing of Stockholder Approval

If Board determines delay required to obtain prior stockholder approval is not in the best interests of stockholders, then rights plan must be submitted to stockholders at later of:

- ☐ 2005 Annual Meeting
- ☐ 270 days from adoption

Considerations for Setting Timing of Approval

- ☐ Nature and duration of threat
- ☐ Execution of strategic plan
- ☐ Expected expiration date for rights plan

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Qualified or Permitted Offer Provisions

Rights plan can be structured to exempt "Qualified" or "Permitted" Offers

Precedent qualifications for "Qualified" Offer

- ☐ All-cash
- ☐ No "inadequacy" opinion
- ☐ Price offered must be higher than 24-month high
- ☐ No financing or other significant conditions
- ☐ For all exchange and tender offers, bidder commits that any "back-end" merger will be at the tender price

Precedent definition of "Permitted Offer"

- ☐ Supermajority of Board or independent directors
- ☐ Satisfactory fairness opinion
- ☐ "Fair" to stockholders (taking into account alternative of orderly sale process)

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V. Process Matters

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Why Now?

- ☐ Recent significant and rapid accumulations of shares
- ☐ Current unavailability of financial information to stockholders will make it difficult for stockholders to evaluate an offer
- ☐ Time is required for implementation and realization of strategic plan
- ☐ Issues associated with self-interests of a large stockholder

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Process for Adopting Shareholder Rights Plan

- ☐ Board authorizes the Rights Plan and sets the Record Date
- ☐ Board reserves the appropriate number of shares of Preferred Stock
- ☐ Company and Rights Agent execute the Rights Agreement
- ☐ Company files Form 8-A Registration Statement with SEC and NYSE
- ☐ Company files Listing Application with NYSE
- ☐ Company issues press release describing the Rights Plan and files Form 8-K
- ☐ Company mails summary of the Rights Plan to Stockholders

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Stockholder Reaction

Uncertain Impact on Company Stock Price

Non-binding Shareholder Proposals

Litigation

- ☐ By a potential buyer
- ☐ By existing shareholder

Reaction of Existing Large Stockholders

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